

REMARKS/ARGUMENTS

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-33, 52-84 and 103-136, drawn to a method, system and the associated computer hardware for providing solutions to problems, classified in class 705, subclass 35.
- II. Claims 35-51, 85-102 and 137-157, drawn to a method , system and the associated computer hardware for the preparation and selection of trading securities, classified in class 705, subclass 37.

The Examiner states that inventions from Group I and Group II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have difference modes of operation, different functions, or difference effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the Examiner asserts that the inventions of Groups I and II are unrelated because the invention of Group I is directed to a method of providing solutions to problems which is somewhat general in nature whereas the invention of Group II is directed more specifically to the preparation and selection of trading securities.

REMARKS

Applicant acknowledges the Office Action dated October 3, 2003. In response, Applicant elects with traverse to prosecute the species of Group I, claims 1-33, 52-84 and 103-136.

The Applicant traverses the restriction requirement and submits that the Examiner's restriction requirement is in error. The situation where inventions are independent is "but rarely presented", MPEP § 808.01, and is not present here. For example, the Applicant points to the

Examiner's classification of Group I and Group II. The Examiner asserts Group I is properly classified in class 705, subclass 35 and Group II is properly classified in class 705, subclass 37. Subclass 37 is indented under subclass 35, however. As explained in the Manual of Classification, Chapter V ("Selection of Locus for Searching or Placement"), Section B ("Selecting a Subclass Within a Class"), the modern classification schedules can be viewed as a series of sieves or strainers located one above another. Those sieves that are located higher in the array have larger diameter apertures, so they strain out only the largest particles $\frac{3}{4}$ that is, the largest organization of claimed elements. Moving down through the series, the aperture size decreases, consequently trapping smaller sized organizations. This process continues all the way down the series to the bottom. Consequently, under the Examiner's own logic, the claims of Group II are not unrelated to the claims of Group I. As the Examiner herself argues by her proposed classification, the claims of Group II are related to, and are a subset of, the claims of Group I. The restriction requirement is therefore traversed and should be withdrawn.

In addition, it is further explained at the same section of the Manual of Classification:

Since subclasses are inclusive, once an appropriate subclass is selected, it may be necessary to consider subclasses located higher in the schedule than the one selected. To illustrate, refer to the junkyard schedule given as an example in the Section above. Suppose, sorting through a pile of junk, a bar is discovered and a decision must be made about which bin to store the bar in. Consulting the schedule, starting at the top and scanning down, it is noted that subclass 1 provides for bars, but the bars must be combined with other elements, i.e., links and balls. Unless at least all three are present, classification in bin 1 is not proper.

If there is only a bar itself, then subclass 1 is not the proper placement for the bar. Subclasses 2 and 3 also provide for a bar. As noted above, the bar is combined with some other feature, i.e., a link in one case and a ball in the other. The first subclass that accepts a bar by itself is subclass 6. Accordingly, you would assign the bar to bin 6.

Now, suppose after a few months, someone comes in looking for a novel bar. It is known from previous experience that bars, per se, are in bin 6 and that in the

classification system the subclasses or bins are exhaustive of their subject matter. Consequently, if the junk has been properly sorted, there is no need to look in any bin number that appears lower in the schedule than bin 6.

What about higher subclasses? Well, subclasses 1, 2, and 3 all include bars as part of their organization. **To ensure that all bars have been seen, look into those bins also.**

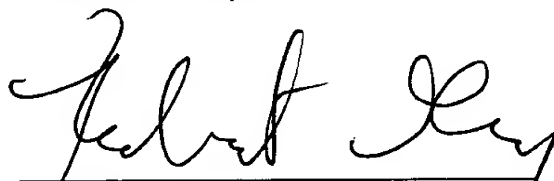
Finally, **once a subclass is selected, all of its indents (if there are any) must be investigated to be sure that one of them does not provide more fully for the subject matter under investigation.**

Id. (emphasis supplied).

Consequently, when searching the subject matter of Group I, the Examiner should search in class 705, subclass 37. When searching the subject matter of Group II, the Examiner should search in class 705, subclass 35. Thus, it is not an undue burden on the Examiner to examine both claim Groups I and II. The restriction requirement is therefore traversed and should be withdrawn.

Should any fees have been inadvertently omitted, or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Deposit Account Number 03-2769 of Conley Rose, P.C., Houston, Texas.

Respectfully submitted,



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